

Application No. 10/010,968

REMARKS

Claims 1-74 are pending. By this Amendment, claims 1-2, 15, 32-37, 50, 56, 57, 59 and 62-63 are cancelled. Claims 4, 16, 38, and 49 have been amended to put these formerly dependent claims in independent format by incorporating all of the limitations of the claims on which they depend. No narrowing amendment is intended. Claims 6, 16 and 17 have been amended to correctly depend from a newly independent claim. No narrowing amendment is intended.

Allowable Subject Matter

Claims 11-14, 19-31, 38, 44-47, 52-55, 58, 60, 61 and 66-74 were indicated as allowable. Formerly dependent claims 4-10, 18 and 49 were objected to but allowable if rewritten in independent format, which has been done. The Applicants thank the Examiner for these indications of allowable subject matter.

Claim Rejections Under 35 U.S.C. § 103

Claims 3, 39-43, 48, 51 and 64-65 were rejected as obvious over Kindlein et al. These rejections are respectfully traversed.

It is respectfully submitted that Kindlein et al disclose an implant system that first implants a plurality of needles in a patient and then moves trains of seeds to be implanted into each needle by having a user connect flexible tube 104 to each of the plurality of needles 105 (Col. 12, lines 31-45). Contrary to the position set forth in the Office Action there are no inherent XY movements that are "controlled" by the unit because of such X-Y movement is

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accomplished through the use of the flexible tubes selectively connected to the plurality of implanted needles. Consequently, because there is no need for "controlled X-Y" movement of the needle assembly in the system disclosed by Kindlein et al, it is respectfully submitted that a *prima facie* case of obviousness has not been established for each of these claims.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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